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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/684,680 06/27/97 YUFA

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EXAMINER

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COLTON CA 92324-1952

PHAM, H

2877

DATE MAILED:  
06/11/99

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>08/884,680</b>	Applicant(s) <b>Aleksandr L. Yufa</b>
	Examiner <b>Hoa Q. Pham</b>	Group Art Unit <b>2877</b>

Responsive to communication(s) filed on May 13, 1999

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 32-40 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 32-40 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

## DETAILED ACTION

### *Drawings*

1. The drawings filed on 11/6/98 have been approved by the draftsperson.

### *Specification*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of 37 CFR 1.71(a)-(c):

(a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.

(b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode contemplated by the inventor of carrying out his invention must be set forth.

(c) In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

3. The amendment filed on 6/11/98 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The applicant's amendment to page 9 and claims 26 and 30 in

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which the limitation “**terminal means includes at least one of floppy disk means and an external interface means**” is not disclosed in the original disclosure.

Applicant is required to cancel the new matter in the reply to this Office action.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 32-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zinner (3,591,290) in view of Brittenham et al (5,059,395).

Zinner discloses a urological apparatus and method which has all the features of the present invention except that a low power light source means is used; however, Zinner teaches that light source may produce light in any part of the visible spectrum or at invisible wavelengths (column 4 lines 17-20); in addition, using a low power light source for determining the particle size is well known in the art as mentioned by the applicant in page 2 line 5. Thus, those of ordinary skill in the art at the time the invention was made to include in Zinner a low power light source because this is a known light source which is known to serve for the purpose of Zinner of determining the size of the drops in the urine stream.

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Regarding claim 35, Zinner does not explicitly teach that an analog to digital converter is connected to the amplifier and the computer; however, such the features are known in the art, for example as taught by Brittenham et al. Brittenham et al, from the same field of endeavor, discloses a particle analyzing apparatus in which the A/D converter (20) is connected to the detector (16) and the processor (22) for the same purpose of determining the sizes of the particles (figure 1). Those of ordinary skill in the art at the time the invention was made to include in Zinner an analog digital subsystem as taught by Brittenham et al for determining the size of the particle. The rationale for this modification would have arisen from the fact that using a digital system would increase the accuracy of the measurement.

Regarding claim 36, see processor (22) and display (30) in figure 1 of Brittenham et al.

Regarding claim 37, see optical fiber means 16 and 18 of Zinner.

The steps in claims 38-40 are read on the combination of Zinner and Brittenham et al.

#### *Response to Arguments*

6. Applicant's arguments filed 5/13/99 have been fully considered but they are not persuasive.

Applicant's remarks, pages 6-7, argues that the new matter "**terminal means includes at least one of floppy disk means and an external interface means**" was misprinted in the original specification is not acceptable because the applicant fails to show the evidences how this

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limitation is misprinted. As seen from the last paragraph of page 11 through page 12, the examiner does not see any misprinted error. Thus, the argument is not deemed to be persuasive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Hoa Pham whose telephone number is (703) 308-4808. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722 or 7724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Pham/hp

June 08, 1999



Hoa Q. Pham  
Primary Examiner